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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/519,572	12/28/2004	Hermann Grether	SMB-PT121 (PC 03 445 B US	7694
3624 7590 04/10/2008 VOLPE AND KOENIG, P.C. UNITED PLAZA, SUITE 1600 30 SOUTH 17TH STREET PHILADELPHIA, PA 19103			EXAMINER GORMAN, DARREN W	
			ART UNIT 3752	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/519,572	<b>Applicant(s)</b> GRETHER, HERMANN	
	<b>Examiner</b> Darren W. Gorman	<b>Art Unit</b> 3752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 September 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 34-67 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 34-67 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 December 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/28/2004</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The IDS filed on December 28, 2004 is hereby acknowledged and has been placed of record. Please find attached a signed copy of the PTO 1449.

### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the following features must be shown or the features canceled from the claims:

- The jet regulating device being upstream from the jet separating device, as recited in claim 35, is not shown. Applicant's drawings only show the jet regulating device (4) being located downstream from the jet separating device (2).
- The jet regulating device being downstream of the flow regulator, as recited in claim 47, is not shown. Applicant's drawings only show the jet regulating device (4) being located upstream of the flow regulator (14).
- The housing part on the outflow side being "braced by longitudinal ridges in the circumference direction" that are distributed in an equal manner, as recited in claim 64, is not clearly shown. Applicant's drawing Figure 14 shows reference number "22" which are supposed to designate these longitudinal ridges, however the lead lines don't appear to point to anything that can reasonably be described as "longitudinal ridges".
- The "particular rotary snap-on connection", as recited in claim 67, is not shown.

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No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 34-67 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 34, the recitation, “at least one mounted element” on line 5 is confusing because it is unclear whether this “at least one mounted element” is one of the “at least one mounted element” recited on lines 2-3 of the claim, or if it is a different “at least one mounted element”.

Regarding claim 35, the claim as a whole is contrary to what is shown in the drawings and the claim also contradicts itself. In the first two lines of the claim, the “jet regulating device” is recited to be “upstream” from the “jet separating device”. None of the drawings show such an arrangement (see also paragraph 2, bullet #1 above). The remaining portion of the claim recites that the individual jets are formed by the jet separating device and the jets impinge on the junction points of at least one mounted element of the jet regulating device. If this is true, then how can the jet regulating device and components thereof be located upstream from the jet separating device?

Further regarding claim 35, the recitation, “at least one mounted element” on lines 3-4 and on line 6 is confusing because it is unclear whether either or both of these “at least one mounted element” recitations are one and the same as the “at least one mounted element” recited in claim 34, or if one or both of these “at least one mounted element” recitations are different “at least one mounting element” recitations.

Regarding claim 37, the recitation, “at least two neighboring mounted elements” is confusing because it is unclear whether this recitation is referring back to one or more of the “at least one mounted element” recited in claim 34, or if the “at least two neighboring mounted elements” are different from the “at least one mounted element”.

Further regarding claim 37, the recitation, “ridges” is confusing because it is unclear whether or not these “ridges” are referring back to the ridges of the “at least one mounted element” recited in claim 34.

Regarding claim 38, the recitation, “at least two neighboring mounted elements” is confusing because it is unclear whether this recitation is referring back to the “at least two neighboring mounted elements” of claim 37, or if the “at least two neighboring mounted elements” are different recitations. Further confusion exists when taking into consideration the confusion between the “at least two neighboring mounted elements” of claims 37 and 38 and the “at least one mounted element” of claim 34.

Regarding claim 39, the recitation, “at least two mounted elements” is confusing because it is unclear whether either or both of these “at least two mounted elements” are one and the same as the “at least one mounted element” recited in claim 34, or if one or both of these “at least two mounted elements” are different elements.

Further regarding claim 39, the recitation, “constructed in the same way” is unclear. What does this mean?

Regarding claim 40, the recitation, “one of the mounted elements” is unclear, since the device has not yet been limited to one that has a plurality of mounted elements.

Further regarding claim 40, the recitation, “the neighboring mounted elements” lacks antecedent basis. What “neighboring mounted elements” is this recitation referring to?

Regarding claim 41, the recitation, “at least one mounted element” is confusing because it is unclear whether this “at least one mounted element” is one and the same as the “at least one

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mounted element” recited in claim 34, or if this “at least one mounted element” recitation is a different element.

Further regarding claim 41, the recitation, “on an inflow- and/or outflow side” is confusing. What does this mean?

Regarding claim 42, the recitation, “a mounted element” is confusing because it is unclear whether this “mounted element” is one and the same as one of the “at least one mounted element” recited in claim 34, or if this “mounted element” recitation is a different element.

Further regarding claim 42, the recitation, “on the flow- and/or outflow side” is confusing. First, this recitation lacks antecedent basis. Second, the Examiner does not understand the meaning of this recitation.

Regarding claim 43, the recitation, “one mounted element” is confusing because it is unclear whether this “one mounted element” is one and the same as one of the “at least one mounted element” recited in claim 34, or if this “one mounted element” recitation is a different element.

Further regarding claim 43, the recitation, “on the inflow- and/or outflow side” is confusing. First, this recitation lacks antecedent basis. Second, the Examiner does not understand the meaning of this recitation.

Regarding claim 44, the recitation, “one mounted element” is confusing because it is unclear whether this “one mounted element” is one and the same as one of the “at least one mounted element” recited in claim 34, or if this “one mounted element” recitation is a different element.

Further regarding claim 44, the recitation, “on the inflow- and/or outflow side” is confusing. First, this recitation lacks antecedent basis. Second, the Examiner does not understand the meaning of this recitation.

Regarding claim 45, the recitation, “at least one mounted element” is confusing because it is unclear whether this “at least one mounted element” is one of the “at least one mounted element” recited in claim 34, or if it is a different “at least one mounted element”.

Regarding claim 46, the recitation, “the mounted elements” is unclear, since the device has not yet been limited to one that has a plurality of mounted elements.

Regarding claim 47, the recitation, “wherein the jet regulating device is downstream on an outflow side of a flow regulator” is confusing. As understood by the Examiner, and as shown in Applicant’s drawings, the “jet regulating device” is upstream of the “flow regulator”. As is clearly shown in the drawings, there is nothing downstream of any of the disclosed flow regulators (14).

Regarding claim 50, the recitation, “the flow regulator has passage openings” is confusing because it is unclear whether the “passage openings” of this claim are further limiting the “passage openings” of claim 47, or if these are different “passage openings” from those recited in claim 47.

Regarding claim 51, the recitation, “a housing part” on line 3 is confusing because it is unclear if this “housing part” is one of the “at least two housing parts” recited on line 2 of the claim, or if this is an additional housing part to the “at least two housing parts”.

Regarding claim 52, the recitation, “the housing part” is confusing because it is unclear which of the “at least two housing parts” this particular “housing part” is referring back to.



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Regarding claim 54, the recitation, “the detachable housing parts” lacks antecedent basis.

Regarding claim 55, the recitation, “a housing part” is confusing. There is antecedent basis to a “mounting housing”, however this “mounting housing” has not been recited as having specific parts.

Further regarding claim 55, the entire claim is unclear. In essence, the claim recites that “a housing part...can be mounted in the housing part”. How can a housing part be mounted in itself?

Regarding claim 56, the entire claim is unclear. The Examiner cannot decipher any clear limitations from this claim.

Regarding claim 57, the entire claim is unclear. In essence, the claim recites that the “mounting housing” is “optionally attached in the jet regulating device that can be mounted in the mounting housing”. How can the housing be mounted in the jet regulating device, while at the same time, the jet regulating device is mounted in the housing?

Regarding claim 59, the recitation, “the multiple optional mounted elements” is confusing. First, this recitation does not have clear antecedent basis. Second, claim 34 recites, “at least one mounted element”, and does not limit such to a plurality of mounted elements.

Regarding claim 60, the recitation, “the mounted elements” is unclear, since the device has not yet been limited to one that has a plurality of mounted elements.

Regarding claim 61, the recitation, “the water discharge opening” lacks antecedent basis.

Regarding claim 62, the recitation, “the water discharge opening” lacks antecedent basis.

Regarding claim 65, the recitation, “the discharge opening” lacks antecedent basis.

Regarding claim 66, the recitation, “the water discharge opening” lacks antecedent basis.

Regarding claim 67, the recitation, “the housing part on the outflow side” is confusing. First, it is unclear which of the “at least two housing parts” of claim 51 this particular “housing part” is referring back to. Second, “the outflow side” lacks antecedent basis.

Further regarding claim 67, the recitation, “the neighboring housing part” is unclear. What is this “neighboring housing part” referring to?

Further regarding claim 67, the recitation, “via a particular rotary snap-on connection” is unclear. What is a “particular rotary snap-on connection”? It should be noted that the disclosure lends no clear explanation as to what element or elements make up such a “particular rotary snap-on connection”?

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 34-60 and 64-67 are rejected, as well as the claims are understood by the Examiner, under 35 U.S.C. 102(b) as being anticipated by Grether et al., USPN 6,152,182.

Grether shows a sanitary component (1, 103, 105, 106, 108, 110) with a jet regulating device (8) in the interior of a mounting housing (2), the jet regulating device including at least one mounted element, each mounting element having ridges (formed on deflector members 9) oriented transverse to a direction of flow, wherein between the ridges, passageways are defined, and wherein the ridges of the mounted elements are arranged in the form of a grid or mesh,

crossing itself at junctions points (see Figures 4, 7, 9 and 11). It is noted that, although the drawings of Grether show a plurality of deflector members (see various embodiments throughout Figures 2-11 of Grether), which form the grid, wherein the deflector members are spaced apart in a longitudinal direction of the device, such arrangements are still reasonable to anticipate the claimed arrangement, since the ridges clearly cross each other to form junction points and since passageways are clearly formed between the ridges. It should also be noted that the disclosure of Grether expressly states that the deflectors “are preferably arranged in a grid shape in at least one plane oriented crosswise to the flow-through direction” (see column 3, lines 13-15). Thus, although not clearly shown in any of the drawings, the disclosure of Grether encompasses a jet regulating device where the ridges cross each other at junction points within the same plane to form the grid shape in a single plane.

Grether further shows a jet separating device (5) upstream of the jet regulating device, wherein the jet regulating device is shaped as a perforated plate. In Figure 3, Grether shows that the junction points formed between the first two deflector members align with the junction points formed between the next two deflector members. At least Figure 5a shows at least two elements of the jet regulating device having reasonably been constructed in the same way. Grether also shows an embodiment (see Figures 10 and 11) wherein the jet regulating device has a group of radial ridges (22) that cross at junction points with a group of rotary ridges (23) that are concentric in the form of a ring, thus crossing in a radial manner. Grether also shows a flow regulator (25) in at least one of the shown embodiments (see Figures 6 and 10) wherein the flow regulator includes passage openings (26), wherein at least some of the passage openings (at least those in close proximity to the housing constriction 18) exhibit a portion having a smaller

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opening width than a height thereof in the direction of flow. Further, Grether discloses that the flow regulator passage openings may exhibit at least one of a rectangular, circular-segment or honeycomb shape (see column 13, lines 21-25). Grether also shows and discloses the mounting housing including multiple housing parts (see column 8, lines 36-40), at least two of which are disclosed as “sleeve parts”, and Grether also shows that a housing part is integral with the perforated plate (see Figure 1 – note that the outer rim of the perforated plate 6 forms an exterior portion of what would reasonably be considered part of the housing for the device). Grether also discloses a plug stop in the housing for the jet regulating device (see column 5, lines 26-32). As to the device including at least one metal filter, Grether explains that “mounting of metal flow regulator sieves can be omitted” (see column 2, lines 61-63), however this is enough to reasonably teach that at least one metal filter can be included. Grether also shows a housing constriction (18) in the area of the water discharge opening, and Grether discloses snap-on connection of the housing parts (see column 9, lines 21-26).

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 61-63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grether et al., in view of Flieger, USPN 6,588,682.

Grether shows all of the limitations as set forth in claim 55, however Grether is silent as to including at least one soft and/or water-repellant surface on the housing part in the area of the water discharge opening, or forming the housing part in at least the area of the water discharge opening from an elastic material.

Flieger shows a sanitary component and discloses that other prior art sanitary components are often subject to calcification at their respective water discharge openings. Flieger teaches forming at least the outlet portion of the device from an elastic material, thus permitting a user to easily and effectively clean the outlet portion with a finger tip (see Figure 1 and column 5, lines 30-53), and Flieger also discloses applying a soft and/or water-repellant surface to the outlet portion to substantially prevent wetting of the outlet portion, thus reducing or eliminating calcification (see column 5, line 54 through column 6, line 18).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to form at least the housing part in the area of the discharge opening of the device of Grether from an elastic material, and/or coat at least the housing part in the area of the discharge opening of the device of Grether with a soft and/or water-repellant surface, as taught by Flieger, thus permitting a user to easily and effectively clean the outlet portion with a finger tip, and/or also thereby reducing or eliminating calcification at the water discharge opening.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patents to Finkbeiner et al., Kuhn, Muchenberger et al., and Shekalim, are cited as of interest.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Darren W. Gorman whose telephone number is 571-272-4901. The examiner can normally be reached on M-F 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Len Tran can be reached on 571-272-1184. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Primary Examiner, Art Unit 3752

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